

COMMITTEE REPORT

MADAM PRESIDENT:

The Senate Committee on Energy and Environmental Affairs, to which was referred Senate Bill No. 199, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1 Page 1, delete lines 6 through 17, begin a new paragraph and insert:
2 "SECTION 2. IC 13-30-10-1.5 IS ADDED TO THE INDIANA
3 CODE AS A NEW SECTION TO READ AS FOLLOWS
4 [EFFECTIVE JULY 1, 2008]: Sec. 1.5. (a) Except as provided in
5 subsection (b), a person regulated under IC 13-22 who knowingly
6 does any of the following commits a Class B misdemeanor:
7 (1) Transports hazardous waste to an unpermitted facility.
8 (2) Treats, stores, or disposes of hazardous waste without a
9 permit issued by the department.
10 (3) Transports, treats, stores, disposes, recycles, or causes to
11 be transported used oil regulated under 329 IAC 13 in
12 violation of the standards established by the department for
13 the management of used oil.
14 (4) Makes a false material statement or representation in any
15 label, manifest, record, report, or other document filed or
16 maintained under the hazardous waste or used oil standards.
17 (b) An offense under subsection (a) is a Class D felony if the
18 offense results in damage to the environment that renders the
19 environment unfit for human or vertebrate animal life. An offense
20 under subsection (a) is a Class C felony if the offense results in the
21 death of another person.

1 (c) Before imposing sentence upon conviction of an offense
2 under subsection (a) or (b), the court shall consider either or both
3 of the following factors, if found by the jury or if stipulated to by
4 the parties in a plea agreement:

5 (1) If the offense involves discharge of a contaminant into the
6 environment, whether that discharge resulted in any or a
7 combination of the following:

8 (A) A substantial risk of serious bodily injury.

9 (B) Serious bodily injury to an individual.

10 (C) The death of a vertebrate animal.

11 (D) Damage to the environment that:

12 (i) renders the environment unfit for human or
13 vertebrate animal life; or

14 (ii) causes damage to an endangered, an at risk, or a
15 threatened species.

16 (2) Whether the person did not know and could not
17 reasonably have been expected to know that the contaminant
18 discharged into the environment was capable of causing a
19 result described in subdivision (1).

20 (d) Notwithstanding IC 35-50-3-3, a person who is convicted of
21 a Class B misdemeanor under subsection (a) may be punished by
22 a fine of at least ten thousand dollars (\$10,000) per day for each
23 violation and not more than twenty-five thousand dollars (\$25,000)
24 per day for each violation.

25 (e) Notwithstanding IC 35-50-2-6(a) or IC 35-50-2-7(a), the
26 court may order a person convicted under subsection (b) to pay:

27 (1) a fine of at least ten thousand dollars (\$10,000) and not
28 more than fifty thousand dollars (\$50,000) for each day of
29 violation; or

30 (2) if the person has a prior unrelated conviction for an
31 offense under this title that may be punished as a felony, a fine
32 of not more than one hundred thousand dollars (\$100,000) for
33 each day of violation.

34 (f) Except as provided in subsection (g), a person regulated
35 under IC 13-17 who does any of the following commits a Class C
36 misdemeanor:

37 (1) Knowingly violates any applicable requirements of
38 IC 13-17-4, IC 13-17-5, IC 13-17-6, IC 13-17-7, IC 13-17-8,

1 IC 13-17-9, IC 13-17-10, IC 13-17-13, or IC 13-17-14.

2 (2) Knowingly violates any air pollution registration,
3 construction, or operating permit condition issued by the
4 department.

5 (3) Knowingly violates any fee or filing requirement in
6 IC 13-17.

7 (4) Knowingly makes any false material statement,
8 representation, or certification in any form, notice, or report
9 required by an air pollution registration, construction, or
10 operating permit issued by the department.

11 (g) An offense under subsection (f) is a Class D felony if the
12 offense results in damage to the environment that renders the
13 environment unfit for human or vertebrate animal life. An offense
14 under subsection (f) is a Class C felony if the offense results in the
15 death of another person.

16 (h) Before imposing sentence upon conviction of an offense
17 under subsection (f) or (g), the court shall consider either or both
18 of the following factors, if found by the jury or if stipulated to by
19 the parties in a plea agreement:

20 (1) If the offense involves discharge of a contaminant into the
21 environment, whether that discharge resulted in any or a
22 combination of the following:

23 (A) A substantial risk of serious bodily injury.

24 (B) Serious bodily injury to an individual.

25 (C) The death of a vertebrate animal.

26 (D) Damage to the environment that:

27 (i) renders the environment unfit for human or
28 vertebrate animal life; or

29 (ii) causes damage to an endangered, an at risk, or a
30 threatened species.

31 (2) Whether the person did not know and could not
32 reasonably have been expected to know that the contaminant
33 discharged into the environment was capable of causing a
34 result described in subdivision (1).

35 (i) Notwithstanding IC 35-50-3-4, a person who is convicted of
36 a Class C misdemeanor under subsection (f) may be punished by
37 a fine of at least ten thousand dollars (\$10,000) per day for each
38 violation and not more than twenty-five thousand dollars (\$25,000)

1 per day for each violation.

2 (j) Notwithstanding IC 35-50-2-6(a) or IC 35-50-2-7(a), the
3 court may order a person convicted under subsection (g) to pay:

4 (1) a fine of at least ten thousand dollars (\$10,000) and not
5 more than fifty thousand dollars (\$50,000) for each day of
6 violation; or

7 (2) if the person has a prior unrelated conviction for an
8 offense under this title that may be punished as a felony, a fine
9 of not more than one hundred thousand dollars (\$100,000) for
10 each day of violation.

11 (k) Except as provided in subsection (l), a person regulated
12 under IC 13-18 who does any of the following commits a Class C
13 misdemeanor:

14 (1) Willfully or recklessly violates any applicable standards or
15 limitations of IC 13-18-3-2.4, IC 13-18-4-5, IC 13-18-8,
16 IC 13-18-9, IC 13-18-10, IC 13-18-12, IC 13-18-14,
17 IC 13-18-15, or IC 13-18-16.

18 (2) Willfully or recklessly violates any National Pollutant
19 Discharge Elimination System permit condition issue by the
20 department under IC 13-18-19.

21 (3) Willfully or recklessly violates any National Pollutant
22 Discharge Elimination System Permit filing requirement.

23 (4) Knowingly makes any false material statement,
24 representation, or certification in any National Pollutant
25 Discharge Elimination System Permit form or in any notice or
26 report required by a National Pollutant Discharge
27 Elimination System permit issued by the Department.

28 (l) An offense under subsection (k) is a Class D felony if the
29 offense results in damage to the environment that renders the
30 environment unfit for human or vertebrate animal life. An offense
31 under subsection (k) is a Class C felony if the offense results in the
32 death of another person.

33 (m) Before imposing sentence upon conviction of an offense
34 under subsection (k) or (l), the court shall consider either or both
35 of the following factors, if found by the jury or if stipulated to by
36 the parties in a plea agreement:

37 (1) If the offense involves discharge of a contaminant into the
38 environment, whether that discharge resulted in any or a

combination of the following:

(A) A substantial risk of serious bodily injury.

(B) Serious bodily injury to an individual.

(C) The death of a vertebrate animal.

(D) Damage to the environment that:

(i) renders the environment unfit for human or vertebrate animal life; or

(ii) causes damage to an endangered, an at risk, or a threatened species.

(2) Whether the person did not know and could not reasonably have been expected to know that the contaminant discharged into the environment was capable of causing a result described in subdivision (1).

(3) Whether the discharge was the result of a combined sewer overflow and the person regulated had given notice of that fact to the department.

(n) Notwithstanding IC 35-50-3-4, a person who is convicted of a Class C misdemeanor under subsection (k)(1), (k)(2), or (k)(3) may be punished by a fine of at least ten thousand dollars (\$10,000) a day for each violation and not more than twenty-five thousand dollars (\$25,000) a day for each violation.

(o) Notwithstanding IC 35-50-3-4, a person who is convicted of a Class C misdemeanor under subsection (k)(4) may be punished by a fine of at least five thousand dollars (\$5,000) for each instance of violation and not more than ten thousand dollars (\$10,000) for each instance of violation.

(p) Notwithstanding IC 35-50-2-6(a) or IC 35-50-2-7(a), the court may order a person convicted under subsection (l) to pay:

(1) a fine of at least ten thousand dollars (\$10,000) and not more than fifty thousand dollars (\$50,000) for each day of violation; or

(2) if the person has a prior unrelated conviction for an offense under this title that may be punished as a felony, a fine of not more than one hundred thousand dollars (\$100,000) for each day of violation."

Delete page 2.

Page 3, delete lines 1 through 4.

Page 6, after line 40, begin a new paragraph and insert:

1 "SECTION 5. [EFFECTIVE UPON PASSAGE] (a) As used in this
2 SECTION, "task force" refers to the environmental crimes task
3 force established by this SECTION.

4 (b) There is established the environmental crimes task force.

5 (c) The task force consists of the members of the environmental
6 crimes task force created by P.L.1- 2006, SECTION 590 who
7 served on December 31, 2007.

8 (d) The appointed members of the task force serve at the
9 pleasure of the appointing authority under P.L.1-2006, SECTION
10 590. The appointing authority under P.L.1-2006, SECTION 590
11 shall fill any vacancy on the task force within forty-five (45) days.

12 (e) The chairman of the legislative council shall designate a
13 legislative member of the task force to serve as chairperson of the
14 task force.

15 (f) The expenses of the task force shall be paid from
16 appropriations made to the legislative council or the legislative
17 services agency.

18 (g) The task force shall do the following:

19 (1) Conduct at least one (1) public hearing to receive
20 comments from the public on the need for further
21 amendments to IC 13-30-10.

22 (2) If the task force determines that further amendments to
23 IC 13-30-10 are appropriate, prepare recommendations for
24 amendments to IC 13-30-10 that are consistent with the
25 minimum requirements for the department of environmental
26 management delegated state programs.

27 (3) Submit its final report before November 1, 2008, to:

28 (A) the governor;

29 (B) the executive director of the legislative services agency
30 in an electronic format under IC 5-14-6; and

31 (C) the environmental quality service council.

32 (h) The legislative services agency shall provide staff support to
33 the task force.

34 (i) The task force shall operate under the policies governing
35 study committees adopted by the legislative council.

36 (j) A quorum of the task force must be present to conduct
37 business. A quorum consists of a majority of the members of the
38 task force. The task force may not take an official action unless the

1 **official action has been approved by at least a majority of the**
2 **members of the task force.**

3 **(k) This SECTION expires January 1, 2009.**

4 **SECTION 6. An emergency is declared for this act."**

5 Renumber all SECTIONS consecutively.

(Reference is to SB 199 as introduced.)

and when so amended that said bill do pass.

Committee Vote: Yeas 5, Nays 1.

Gard

Chairperson